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8   IN THE UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

10   HUGH L. STEWART,

11   Plaintiff,   No. CIV S-03-0469 FCD KJM P

12   vs.

13   BAXTER DUNN, et al.,

14   Defendants.   ORDER

15   _____/

16   Plaintiff, a California civil detainee proceeding pro se, has filed this civil rights

17   action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States

18   Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

19   On August 8, 2006, the magistrate judge filed findings and recommendations

20   herein which were served on all parties and which contained notice to all parties that any

21   objections to the findings and recommendations were to be filed within twenty days. Plaintiff

22   has filed objections to the findings and recommendations.

23   In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-

24   304, this court has conducted a de novo review of this case. Having carefully reviewed the entire

25   file, the court finds the findings and recommendations to be supported by the record and by

26   proper analysis.

1   Accordingly, IT IS HEREBY ORDERED that:

2   1. The findings and recommendations filed August 8, 2006, are adopted in full;

3   2. Defendants' December 20, 2005 motion to dismiss or for summary judgment is

4   granted in part and denied in part as follows:

5   A. Granted as to plaintiff's claims against San Joaquin County, thereby

6   dismissing San Joaquin County from this action;

7   B. Granted as to plaintiff's claims against defendant Dunn except for

8   plaintiff's claim that Dunn violated plaintiff's Fourteenth Amendment rights by ordering that

9   plaintiff be made to get up from his wheelchair on July 29, 2000; and

10   C. Denied in all other respects; and

11   3. Defendants Dunn, Franks and Divinia are ordered to file their answer within

12   twenty days from the date of this order.

13   DATED:September 6, 2006

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                                    /s/ Frank C. Damrell Jr.
15   FRANK C. DAMRELL JR.
                                    United States District Judge
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